

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)

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In re:

BED BATH & BEYOND INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 23-13359 (VFP)

(Jointly Administered)

Hearing Date: February 14, 2024 at
10:00 a.m.

Judge: The Honorable Vincent F.
Papalia,

U.S.B.J.

**DECLARATION OF PLAN ADMINISTRATOR MICHAEL GOLDBERG IN SUPPORT
OF OPPOSITION TO MOTION FOR ORDER ALLOWING GENERAL UNSECURED
CLAIM OF LEVTEX LLC**

Pursuant to 28 U.S.C. § 1746, I, Michael Goldberg, under penalty of perjury, declare as follows:

¹ The last four digits of Debtor Bed Bath & Beyond Inc.'s tax identification number are 0488. A complete list of the Debtors in these chapter 11 cases and each such Debtor's tax identification number may be obtained on the website of the Debtor's claims and noticing agent at <https://restructuring.ra.kroll.com/bbby>.

1. I am the Plan Administrator to 20230930-DK-Butterfly-1, Inc. (f/k/a/ Bed Bath & Beyond Inc.)² and 73 affiliated debtors (the “Debtors”). I give this declaration in support of my Opposition (the “Opposition”) to the *Motion for Entry of Order Allowing General Unsecured Claim of LevTex LLC* [Docket No. 2705] (the “Motion”).³

2. Except as otherwise indicated, the statements in this declaration are based on: (a) my personal knowledge of the Debtors’ business operations since my appointment as Plan Administrator; (b) my review of relevant documents including the Motion; (c) information provided to me by, or discussions with, members of my management team, other employees, or the Debtors’ other advisors; and/or (d) my general experience and knowledge. I am authorized to submit this declaration. If called upon to testify, I can and will testify competently as to the facts set forth herein.

B. The Bankruptcy Cases

3. On April 23, 2023 (the “Petition Date”), each of the above-captioned Debtors, including Bed Bath & Beyond, Inc. (“BBB”) filed a voluntary petition under chapter 11 of the Bankruptcy Code (the “Bankruptcy Cases”) before the United States Bankruptcy Court for the District of New Jersey (the “Court”). During the Bankruptcy Cases, the Debtors continued to operate their businesses and manage their properties as debtors and debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The chapter 11 cases were procedurally consolidated and jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

² Pursuant to the *Certificate of Amendment of the Certificate of Incorporation of Bed Bath & Beyond Inc.*, which was filed with the State of New York Department of State on September 21, 2023, the name of the entity formerly known as “Bed Bath & Beyond Inc.” was changed to *20230930-DK-Butterfly, Inc.* [Filing ID No. 230921001833 DOS ID 315602].

³ Capitalized terms that are not defined in this Declaration have the meaning given to them in the Opposition.

4. On May 5, 2023, the United States Trustee for the District of New Jersey (the “U.S. Trustee”) appointed an official committee of unsecured creditors pursuant to section 1102 of the Bankruptcy Code (the “Committee”). *See Notice of Appointment of Official Committee of Unsecured Creditors* [Docket No. 218].

5. On May 31, 2023, the Court entered the *Order (I) Setting Bar Dates for Submitting Proofs of Claim, Including Requests for Payment under Section 503(b)(9), (II) Establishing Amended Schedules Bar Date, Rejection Damages Bar Date, and Administrative Claims Bar Date, (III) Approving the Form, Manner, and Procedures for Filing Proofs of Claim, (IV) Approving Notice Thereof, and (V) Granting Related Relief* [Docket No. 584] (the “Bar Date Order”). The Bar Date Order set July 7, 2023 as the date by which all Claims against the Debtors must be filed (the “Bar Date”).

6. On September 14, 2023, the Court entered the *Findings of Fact, Conclusions of Law, and Order (I) Approving the Disclosure Statement on a Final Basis and (II) Confirming the Second Amended Joint Chapter 11 Plan of Bed Bath & Beyond Inc. and its Debtor Affiliates* [Docket No. 2172] (the “Confirmation Order”), confirming the *Second Amended Joint Chapter 11 Plan of Bed Bath & Beyond Inc. and Its Debtor Affiliates* [Docket No. 2160] (as amended, the “Plan”).

7. On September 29, 2023, the effective date of the Plan occurred (the “Effective Date”). On the Effective Date, I became the sole representative of the Wind-Down Debtors and assumed responsibility for, *inter alia*, resolving claims, performing claims reconciliation, and objecting to claims. Pursuant to the Plan, I also have the right and the duty to investigate, prosecute and/or compromise the Debtors’ Causes of Action, including Preference Actions.

8. Pursuant to the Plan, the Claims Objection Bar Date is March 27, 2024, which date may be extended by the Court upon the request of the Plan Administrator. Nineteen thousand four hundred and seven (19,407) proofs of claim have been filed against the Debtors, including approximately thirteen hundred (1300) that seek administrative priority.

C. Lev Tex's Motion and the LevTex Claims

9. Debtor Liberty Procurement Co. Inc scheduled a general unsecured claim for LevTex in the amount of \$80,714.14.

10. LevTex filed the following proofs of claim (the "LevTex Claims"): ⁴

Claim No.	Date Filed	Debtor	Amount/Priority
3942	6/07/23	Liberty Procurement, Inc.	\$395,484.69 (\$73,168.77 (A) + \$322,315.92 (GUC)
3012	5/26/23	Bed Bath & Beyond Inc	\$395,484.69 (\$73,168.77 (A) + \$322,315.92 (GUC)
2177	5/22/23	Bed Bath & Beyond Inc	\$395,484.69 (\$73,168.77 (A) + \$322,315.92 (GUC)

11. On or about June 22, 2023, LevTex transferred Claim 3942 to TradeGuard LLC. *See Transfer of Claim Other Than For Security* [Doc. 1200].

12. On November 17, 2023, LevTex filed the Motion, which, on its face seeks allowance of Claim 3942 as a general unsecured claim. *See* Letter Brief, Docket 2705-7 at 1. However, Claim 3942 asserts a general unsecured claim for \$322,315.92 (the "GUC Claim") and an administrative claim pursuant to Bankruptcy Code section 503(b)(9) for \$73,168.77 (the "503(b)(9) Claim").

13. I have no objection to the total amount of Claim 3942.

⁴ Claim 2177 and Claim 3012 appear to be duplicates of Claim 3942.

14. The invoices that are the subject of the 503(b)(9) Claim are for goods (the “Goods”) that were ordered online by the Debtors’ customers and then shipped directly from LevTex to the customer. The Debtors never received possession of the Goods.

D. The Preferential Payments

15. In the course of my duties and with the assistance of my professionals, I have identified \$1,145,817.70 in payments that were made by the Debtors to LevTex in the 90 days prior to the Petition Date (the “Preferential Payments”). By letter dated November 15, 2023, my counsel made a demand on LevTex for the return of the Preferential Payments (less allowed new value) and invited LevTex to provide evidence of any defenses it may have to an action to recover the Preferential Payments under Bankruptcy Code section 547(b) of the Bankruptcy Code. The parties have discussed settlement possibilities but we have not reached an agreement. As of February 7, 2024, I have not yet filed suit against LevTex.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information and belief.

Dated: February 7, 2024

/s/ Michael Goldberg

By: Michael Goldberg

In His Capacity as Plan Administrator to 20230930-DK-Butterfly-1, Inc. (f/k/a/ Bed Bath & Beyond Inc.) and 73 affiliated debtors